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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,141	02/15/2002	Wayne E. Conrad	88630.213CIP	9852

7590

09/25/2006

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EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/076,141

Applicant(s)

CONRAD ET AL.

Examiner

MONZER R. CHORBAJI

Art Unit

1744

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 07 September 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-16 and 18-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


**WILLIAM H. BEISNER
PRIMARY EXAMINER
GROUP 1744**

Continuation of 11. does NOT place the application in condition for allowance because:

Response to Arguments

On page 5 of the Remarks section; applicant argues that Meston teaches that the range of 2-15 degrees should cover most scrubbing applications, that there is no motivation to modify Meston to teach the recited angle and that further, Meston teaches away from using higher angles than disclosed. The examiner disagrees for the following reasons. Instant amended claim 1 would be rejected under obviousness over Meston. The disclosure as a whole does not provide any criticality regarding range for angles. See pages 2-3, where any angle value meets the requirements of the invention as long as it forms eddies and that the value of the angle depends on the velocities of the fluid to be contacted and the rate of flow of the fluid to be introduced. Meston apparatus including the angle of the baffles are designed for placement on a mobile unit as explained in column 5, lines 29-60. Meston teaches in column 5, a critical angle range. This teaching is based on the fact that Meston apparatus is designed for mobility purposes. Furthermore, Meston teaches in column 5, that the number and angles of the baffles depend on the height of the contacting chamber. One of ordinary skill in the art wanting to design a non-portable mixing device would realize based upon Meston guidance that the number of baffles as well as their angle range are to be modified for an apparatus intended to be not loaded on trucks and would also recognize based upon Meston teachings that as the height of the contact chamber is manipulated so does the number and angles of the baffles. Clearly, absent any evidence of criticality to upwardly inclination angles, determining the proper range of the upwardly inclined angles is a matter of routine experimentation.

On page 6 of the Remarks section; applicant argues that, no such teaching is present in Turk, and no proper motivation has been provided for making such a modification, that the examiner has not pointed to any teaching or suggestion in the prior art would have motivated one of ordinary skill in the art to modify the baffles to the specific range as recited in the instant amended claim 1. The examiner disagrees for the following reasons. Instant amended claim 1 would be rejected under obviousness over Turk in view of Meston. The disclosure as a whole does not provide any criticality regarding range for angles. See pages 2-3, where any angle value meets the requirements of the invention as long as it forms eddies and that the value of the angle depends on the velocities of the fluid to be contacted and the rate of flow of the fluid to be introduced. Hence, since no criticality is taught in the instant disclosure, and the prior art encompasses such newly added feature, determining the proper range of upwardly inclined angles is a matter of routine experimentation. See MPEP 2144.05, II.